



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

CANTER *v.* COMMONWEALTH.

June 19, 1918.

[96 S. E. 284.]

**1. Criminal Law (§§ 308, 327\*)—Presumption of Innocence—Burden of Proof.**—A person charged with crime is presumed to be innocent throughout the trial, and the burden of showing guilt to the exclusion of reasonable doubt is on the commonwealth never shifting to defendant.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 75.]

**2. Homicide (§ 250\*)—Evidence—Sufficiency.**—In a prosecution for murder, circumstantial evidence held not to show defendant guilty beyond a reasonable doubt; the facts being just as consistent with innocence as with guilt.

[Ed. Note.—For other cases, see 7 Va.-W. Va. Enc. Dig. 149.]

Error to Circuit Court, Washington County.

James Canter was convicted of murder, and he brings error. Reversed and remanded.

*N P. Oglesby*, of Bristol, for plaintiff in error.

ELLIOTT'S KNOB IRON, STEEL & COAL CO. *v.* STATE CORPORATION COMMISSION.

June 13, 1918.

[96 S. E. 353.]

**1. Corporations (§ 592½\*)—Forfeiting of Charter—Constitutional and Statutory Provisions.**—A constitutional or statutory provision for forfeiture of a corporate charter to become effective before some legal step is taken by the commonwealth for the assertion of the forfeiture, as by inquest of office or by judicial proceeding, is in derogation of the common law, and will be strictly construed.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 594.]

**2. Evidence (§ 67 (1)\*)—Presumptions—Continued Existence of Corporation.**—Every presumption being in favor of the continued existence of a corporation, courts are disinclined to hold that the charter has been forfeited, especially where the state, which alone may declare a forfeiture in the absence of statute conferring such right on third persons, is not claiming it.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 328.]

**3. Corporations (§ 599\*)—Forfeiting of Charter—Nonpayment of**

---

\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

**Registration Fee.**—Const. 1902, § 157, provides that provision shall be made by general laws for payment of annual registration fee for corporations, and for the making of such report as the General Assembly may prescribe, and that the failure to pay or make the report shall operate as a revocation of the charter, and the General Assembly shall provide additional penalties therefor, and that the commission shall compel compliance by enforcing it in the manner before authorized. Acts 1902-04, c. 147, §§ 45, 48 (Code 1904, § 1313a), state what information shall be required in report to the commission, and require the commission annually to notify the corporation of the amount and due date of the registration fee, and Tax Bill 1903 (Laws 1903, c. 149) § 41, states the amount of the annual registration fee and requires the State Corporation Commission to make the assessment against the corporation. Tax Bill 1906 (Laws 1906, c. 294) makes similar provision except that it requires the corporation commission to ascertain from its records the amount of the capital stock for fixing the registration fee, and provides that default shall without further proceedings constitute a revocation of the charter. Held, that such provisions did not impose revocation of the charter until after a regular assessment by the commission of the annual registration fee, or until a report was required by the commission, and failure to furnish it followed; the constitution and the statute not being self-executing.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 597.]

**4. Corporations (§ 599\*)—Forfeiture of Charter—Nonpayment of Registration Fee—When Collectible.**—Since the Legislature was given the duty of imposing the annual tax, and it required it to be assessed by the State Corporation Commission, the tax could not be considered as imposed or due and payable until the State Corporation Commission assessed it.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 597.]

**5. Corporations (§ 599\*)—Nonpayment of Registration Fee—When Collectible.**—The mere fact that the registration fee was fixed by statute in proportion to the maximum capital stock did not affect the requirement of an assessment by the State Corporation Commission as a prerequisite of forfeiture of the charter for failure to pay the fee.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 597.]

**6. Corporations (§ 599\*)—Nonpayment of Registration Fee—When Collectible.**—The mere fact that the valuation consisted of a mere ascertainment of facts and application of a scale thereto did not affect the requirement of an assessment by the State Corporation

---

\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

Commission as a prerequisite to forfeiture of the charter for failure to pay the fees.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 597.]

**7. Corporations (§ 599\*)—Forfeiture of Charter—Reports—How Required.**—A discretion is vested in the commission as to the form of report, and no forfeiture could occur for failure to make the report until the commission notified the corporation of the form of the report and required that it be made.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 597.]

**8. Corporations (§ 599\*)—Taxation—Failure to Report—Forfeiture.**—Under Tax Bill of 1903, § 41, requiring a report of maximum capital stock, and providing penalty of forfeiture of charter for failure to pay the registration fee, failure to make the report does not work forfeiture.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 597.]

**9. Corporations (§ 599\*)—Taxation—Registration Fee—When Collectible—Estoppel.**—Under Const. 1902, § 157, Acts 1902-04, c. 147, §§ 45, 48 (Code 1904, § 1313a), and Tax Bill 1903, § 41, and Tax Bill 1906, the failure for several years by the state to assess registration fee and require the report did not estop it later to make the assessment and require the report.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 597.]

Appeal from State Corporation Commission.

Proceeding wherein the State Corporation Commission ordered the assessment of the annual franchise tax against the Elliott's Knob Iron, Steel & Coal Company. From said order of the Commission, the Corporation appeals. Affirmed.

*Fitzhugh Elder*, of Staunton, for appellant.

*The Attorney General*, for the Commonwealth.

---

\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.